

**Bolsover District Council**

**Standards Committee**

**11<sup>th</sup> March 2019**

<p><b>Review of the Council's Constitution – The Council's Governance Arrangements for Discharging its Licensing Responsibilities.</b></p>
--

**Report of the Head of Corporate Governance and Monitoring Officer**

This report is public

**PLEASE NOTE:**

**Attached is the report that is due to be considered at the forthcoming meeting of Licensing Committee on 11<sup>th</sup> March 2019 at 9am.**

**The discussion and recommendations of the Licensing Committee will be reported verbally to the meeting of the Standards Committee**

**Bolsover District Council**

**Licensing Committee**

**11 March 2019**

**Review of the Council's Constitution – The Council's Governance  
Arrangements for Discharging its Licensing Responsibilities.**

**Report of the Head of Corporate Governance and Monitoring Officer**

This report is public

**Purpose of the Report**

- To enable Members to contribute to the review of the Constitution and to recommend new governance arrangements for discharging the Council's licensing responsibilities.

**1 Report Details**

- 1.1 Standards Committee is considering the Council's governance arrangements for licensing as part of its review of the Constitution; and, in particular, whether in the light of legal opinion the current arrangements ought to be revised.
- 1.2 The Council has received legal advice that it should establish a specific governance body to deal solely with the Licensing Act 2003 and Gambling Act 2005. This ought to be separate from the committee exercising responsibility for all other aspects of the licensing function, such as taxi and scrap metal licensing.
- 1.3. Different authorities have responded to the need for specific Licensing Act and Gambling Act governance arrangements in a variety of ways. But a common approach has been to simply establish two committees, covering the different legal strands of responsibility.
- 1.4 It is proposed that Council be asked to do this by establishing a 'General Licensing Committee', which would deal with taxi and scrap metal licensing etc. and a 'Licensing and Gambling Acts Committee', with responsibility for licensed premises and club / gaming machine permits etc.
- 1.5 The existing Licensing Committee has fifteen Members. It is proposed that the two new committees consist of 14 Members each. The membership would be politically proportionate to the Council as a whole.

- 1.6 It is important to ensure that the different aspects of licensing continue to be dealt with holistically under the new governance arrangements. For this reason it is recommended that both committees have the same membership, so that their Members can continue to oversee all aspects of the licensing function.
- 1.7 In practice, the committees would meet two or three times a year on the same date. The General Licensing Committee would take place first, followed immediately by the Licensing and Gambling Acts Committee. Consequently, it would continue to feel like a single meeting.
- 1.8 The functions of the new committees would have to be incorporated into the Council's constitution. It is suggested that the functions of the General Licensing Committee be:
- (a) To consider all licensing matters not covered by the Licensing Act 2003 and the Gambling Act 2005, including Private Hire and Hackney Carriage Drivers, Vehicles and Operators;
  - (b) To make any minor changes and updates to the Council's Hackney Carriage and Private Hire Vehicles, Drivers and Operators Policy following adoption by Council;
  - (c) To make any minor changes and updates to other relevant licensing policies as required
- 1.9 It is also suggested that the functions of the Licensing and Gambling Acts Committee be:
- (a) To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005;
  - (b) To make any minor changes and updates to the Statements of Policy under both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements;
  - (c) To recommend to Council to resolve whether to issue a Casino Licence

### **The Sub-Committee Arrangements**

- 1.10 Both of the new committees would have their own sub-committees, which would discharge specific responsibilities of the parent committees. Under this approach, the membership of the two sub-committees would be determined at Annual Council. Seven Members would be appointed to serve on one of the sub-committees and seven on the other, or alternatively, all 14 Members can be appointed to the sub-committee with the membership of 7 meeting in two halves and alternating meeting to meeting.
- 1.11 The General Licensing Sub-Committee (which is likely to face an ongoing high volume of taxi licensing work) will meet monthly – as the current Licensing Sub-Committee (Taxis) generally does. These meetings would be included in the Council's schedule of meetings. The Licensing and Gambling Acts Sub-Committee, by contrast, would have a far more limited workload and therefore meet less frequently. Its meetings would be organised as and when required.

- 1.12 The Council's quorum rules would apply to the meetings of both sub-committees. This means that only three of the seven Members would have to attend for it to be quorate. This should help to reduce the pressure on Members – often at very short notice – to attend sub-committee meetings to ensure that they can take place.
- 1.13 Again, The functions of the sub-committees would have to be incorporated into the Council's constitution. It is suggested that the functions of a General Licensing Sub Committee be:
- (a) To consider all hackney carriage and private hire licensing issues which are referred to it;
  - (b) To consider matters concerning the discharge by the Council of its licensing function under the Local Government (Miscellaneous Provisions) Act 1982 (as amended);
  - (c) To consider scrap metal sites and operators licences.
- 1.14 The suggested functions of a Licensing and Gambling Acts Sub-Committee should be:
- (a) To consider matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003;
  - (b) To consider matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005

## **2 Conclusions and Reasons for Recommendation**

- 2.1 Revising the Council's licensing governance arrangements in this way would bring them into line with best practice under the legislation.

## **3 Consultation and Equality Impact**

- 3.1 The proposed changes have no equality impact implications.
- 3.2 Licensing Committee are consulted by way of this report. Any proposals submitted by Licensing Committee to change the licensing governance arrangements will be reported to Standards Committee. Standards Committee will consider this matter as part of the review of the constitution and recommend changes to Council for adoption and implementation in May 2019.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 The no-change option is not recommended. Maintaining the current governance arrangements, of a single, all-purpose Licensing Committee, would leave the Authority open to appeals against its decisions on Licensing Act and Gambling Act issues, because these decisions had not been taken by a committee with specific responsibility for them.

## **5     Implications**

### **5.1   Finance and Risk Implications**

5.1.1 None

### **5.2   Legal Implications including Data Protection**

1.3 The Council has received legal advice that it should establish a specific governance body to deal solely with the Licensing Act 2003 and Gambling Act 2005. This ought to be separate from the committee exercising responsibility for all other aspects of the licensing function, such as taxi and scrap metal licensing. We currently do not comply with this legislation.

### **5.3   Human Resources Implications**

5.3.1 None

## **6     Recommendations**

6.1 That Licensing Committee endorses the proposed revision to the licensing governance arrangements, along the lines set out in this report;

6.2 That the proposed revised governance arrangements be submitted to Standards Committee for consideration as part of the Council's Constitution Review.

## **7     Decision Information**

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:        Revenue - £75,000    <input type="checkbox"/></i> <i>                 Capital - £150,000    <input type="checkbox"/></i> <i>NEDDC:    Revenue - £100,000 <input type="checkbox"/></i> <i>                 Capital - £250,000    <input type="checkbox"/></i> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>Has the relevant Portfolio Holder been informed</b>	Yes

<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	This is a matter of good Governance.

## 8 **Document Information**

<b>Appendix No</b>	<b>Title</b>
1	Diagram of the two committee model
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
<b>Report Author</b>	<b>Contact Number</b>
Nicola Calver, Governance Manager	01426 217753